

REMARKS

*Claim Rejections - 35 USC § 112*

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The "bottom layer" recited in claim 13 is one of the surface layers. Claim 13 has been amended to overcome the indefiniteness rejection.

*Claim Rejections - 35 USC § 103*

Claims 1, 3-11 and 13-15 are rejected under 35 U.S.C. 102(e) [sic, 35 U.S.C. § 103(a)] as being anticipated [sic. obvious] by Silenius et al. (US 2004/0168779) in view of Begemann et al. (EP 0824157) and further in view of Peel et al. (Paper Science and Paper Manufacture). Claims 1, 3-11 and 13-15 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Begemann et al. in view of Silenius et al. (US 2001/0000063) in view of Begemann et al. and further in view of Peel et al.

The comparative data in the application are believed to demonstrate non-obviousness sufficient to overcome any *prima facie* obviousness that may be considered to be supported by the Office's combinations of references.

Initially, with respect to the scope of the claims, it is noted that applicants have limited the claims to a three-layer fiber product having a grammage of 25 to 60 g/m<sup>2</sup>. This limitation

is supported in the specification of the present application on page 9, last line. The densifying effects of the use, as a filler in the surface layers of a multilayer paper, of the filler recited in the present claims which consists at least partially of cellulose or lignocellulose fibrils, on which light-scattering material particles are deposited, the maximum content of which is 85 % of the total weight of the filler (hereinafter referred to, for convenience, as the "SuperFill" filler), are particularly advantageous in such thin paper grades as described in the specification of the present application on page 10, lines 10-18.

The extent of the increase in resistance to air permeability obtained by the use of the filler of the present invention as compared to a conventional PCC filler could not have been predicted from the prior art and is, therefore, unexpected. For example, Example 2 of the present specification shows in Table 4 and the corresponding Figures 4 and 5 that surprisingly great improvements can be obtained with the present invention. Test point 11 is a multilayered paper formed by the present invention using the "SuperFill" filler. It has an air permeability of 274 ml/min. By contrast, Test Point 10b, which was produced on the same apparatus as Test Point 11 using a commercial PCC filler, had a 74 % higher air permeability  $((476-274)/274 * 100)$ . This is certainly a great

difference, and it is of particular importance with regards to thin papers. There is nothing in the prior art that would have led a person of ordinary skill in the art to expect such an increase.

Moreover, it is clear from the specification disclosure of the present application and the comparative data that the increase in resistance to air permeability is due to the method of formation of the multilayer fiber product and the nature of the filler and not to the particular composition of the filler or paper or to other variables such as the grammage of the product. The Office has not provided any reasoning as to why the factors identified in the Final Action in the first full paragraph on page 4 provide an adequate basis for a person of ordinary skill in the art to reasonably conclude that the number and variety of compositions included by the claims would not behave in the same manner as the tested multilayer paper. See *In re Saunders*, [58 CCPA 1316] 58 CCPA 1316, 1324, [444 F2D 599] 444 F.2d 599, 605, 170 USPQ 213, 218 (1971).

Reconsideration and removal of the prior art rejections are respectfully requested.

*Double Patenting*

Claims 1 and 4 are again provisionally rejected on the ground of nonstatutory obviousness-type double patenting ("ODP") as being

PATENT APPLN. NO. 10/532,481  
SUBMISSION UNDER 37 C.F.R. § 1.114

PATENT  
RCE

unpatentable over claim 12 of copending Application No. 10/475773  
in view of Begemann et al.

Applicants again request that this rejection be held in  
abeyance pending a determination of allowable subject matter in  
this or the related application.

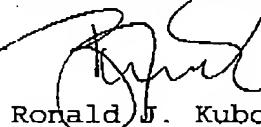
The foregoing is believed to be a complete and proper response  
to the Office Action dated October 6, 2008.

In the event that this paper is not considered to be timely  
filed, applicants hereby petition for an appropriate extension of  
time. The fee for any such extension may be charged to our Deposit  
Account No. 111833.

In the event any additional fees are required, please also  
charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik  
Reg. No. 25,401

Crystal Gateway 3  
Suite 1105  
1215 South Clark Street  
Arlington, VA 22202  
Tel: (703) 412-9494  
Fax: (703) 412-9345  
RJK/esc